

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PUGET SOUND ELECTRICAL  
WORKERS HEALTH AND  
WELFARE TRUST, et al.,

Plaintiffs,

v.

INTEGRATED POWER, INC.,

Defendant.

CASE NO. C11-728RAJ

MINUTE ORDER

The following minute order is made by the direction of the court, the Honorable Richard A. Jones:

The Plaintiffs filed a motion for summary judgment (Dkt. # 10) against Defendant, though the court previously entered an order of default as to Defendant. *See* Order (Dkt. # 6). The entry of default strips the Defendant of its right to appear in the action or to present evidence. *See Clifton v. Tomb*, 21 F.2s 893, 897 (4th Cir. 1927). Summary judgment against Defendant, who is essentially a non-party, would be improper, and the proper form of relief would be default judgment under Federal Rule of Civil Procedure 55. *See Mount v. U.S. Government*, 2006 WL 3486785 (W.D. Wash. Dec. 1, 2006)

1 (stating if a defendant fails to respond, the proper procedure is to seek entry of default  
2 and default judgment, rather than summary judgment).

3       Though, unlike the plaintiff in *Mount*, Plaintiffs have cited Federal Rule of Civil  
4 Procedure 56 and argued that they have satisfied the standard for summary judgment, the  
5 court nonetheless finds that summary judgment is an inappropriate vehicle to both expand  
6 and clarify the allegations in the pleadings and seek affirmative relief on those expanded  
7 allegations. The court will not consider a motion for summary judgment against a party  
8 in default, and thus directs the court to TERMINATE the motion (Dkt. # 10).

9       Dated this 11th day of October, 2011.

10  
11                               WILLIAM M. MCCOOL  
12                               Clerk

13                               s/Consuelo Ledesma  
14                               Deputy Clerk